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Schools

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X. Courses of Instruction; Textbooks

B. Textbooks; Curriculum and Library Materials

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§ 323. CENSORSHIP OF CURRICULUM MATERIALS

The First Amendment does not prevent a school board from removing previously approved textbooks from elective high school classes because of objections to the vulgarity and sexual explicitness of the material, if the factors considered by the board are reasonably related to legitimate pedagogical concerns; school officials may take into account the emotional maturity of the intended audience in determining the appropriateness of potentially sensitive topics, such as sex and vulgarity, and the fact that most high school students range in age from 15 to just over 18, and a substantial number have not yet reached the age of majority. [\[FN26\]](#)

Observation: School officials have abundant discretion to construct the curriculum, and they violate the First Amendment rights of students only when they limit access to materials for the purpose of restricting access to the political ideas or social perspectives discussed in them, when that action is motivated simply by officials' disapproval of ideas involved. [\[FN27\]](#)

In resolving controversies involving attempts by local school officials to remove materials from the curriculum of public schools, the courts have usually had to determine whether the discretion of school boards in removing such materials violates the First Amendment rights of the plaintiffs bringing such actions. [\[FN28\]](#)

[\[FN26\]](#). [Virgil v. School Bd. of Columbia County, Fla., 862 F.2d 1517, 50 Ed. Law Rep. 718 \(11th Cir. 1989\)](#).

Complaint, petition, or declaration--Challenging enactment of restricted book policy. 22 Am. Jur. Pleading and Practice Forms, Schools, Form 217.

[\[FN27\]](#). [Borger by Borger v. Bisciglia, 888 F. Supp. 97, 101 Ed. Law Rep. 235 \(E.D. Wis. 1995\)](#).

[\[FN28\]](#). [Zykan v. Warsaw Community School Corp., 631 F.2d 1300 \(7th Cir. 1980\)](#) (violation not established); [Pratt v. Independent School Dist. No. 831, Forest Lake, Minn., 670 F.2d 771, 2 Ed. Law Rep. 990, 64 A.L.R. Fed. 757 \(8th Cir. 1982\)](#) (violation established); [Cary v. Board of Ed. of Adams-Arapahoe School Dist. 28-J, Aurora, Colo., 598 F.2d 535 \(10th Cir. 1979\)](#) (violation not established); [Harris v. Mechanicville Central School Dist., Mechanicville, Saratoga County, 86 Misc. 2d 144, 382 N.Y.S.2d 251 \(Sup. Ct. 1976\)](#), order modified on other grounds, [57 A.D.2d 231, 394 N.Y.S.2d 302 \(3d Dep't 1977\)](#), judgment modified on other grounds, [45 N.Y.2d 279, 408 N.Y.S.2d 384, 380 N.E.2d 213 \(1978\)](#) (violation established).

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